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6 Attorneys for Defendant  
7 TARGET STORES, a division  
of Target Corporation, erroneously  
sued herein as Target Corporation

E-filing

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

1 | NORMA A. GODOY

2 Plaintiff,

3 | vs.

4 | TARGET CORPORATION, et al.,

5 | Defendants.

Case No.: 4672

[Marin County Superior Court Case No.:  
CV 073570]

## **ANSWER TO COMPLAINT**

Complaint Filed: July 30, 2007

8 COMES NOW Defendant TARGET STORES, a division of Target Corporation,  
9 erroneously sued herein as Target Corporation, and for its answer to the complaint of plaintiff  
0 NORMA A. GODOY, on file herein, admits, denies and alleges the following:

## **GENERAL ALLEGATIONS**

- 2       1. Answering paragraph 2, this answering defendant admits that 4 pages are attached.

3       2. Answering paragraph 3, this answering defendant states that it has no information

4       or belief concerning the subjects of the allegations therein sufficiently enabling it to answer said

5       paragraph, and on that ground, denies each and every, all and singular, generally and specifically,

6       the allegations contained therein.

7       3. Answering paragraph 5(a), this answering defendant admits that Target Stores is a

8       division of Target Corporation, and is a Minnesota corporation whose principal place of business

1 | is in Minnesota.

2       4. Answering the allegation in paragraph 6, this answering defendant states that it has  
3 no information or belief concerning the subjects of the allegations therein sufficient to enable it to  
4 answer said paragraph, and on that ground, denies each and every, all and singular, generally and  
5 specifically, the allegations contained therein.

6       5. Answering the allegation in paragraph 8, this answering defendant denies that the  
7 Superior Court of Marin County is the proper court.

8       6. Answering paragraph 10, this answering defendant admits that there is one (1)  
9 cause of action for Premises Liability attached.

10       7. Answering paragraph 11, this answering defendant denies each and every, all and  
11 singular, generally and specifically, the allegations contained therein.

12       8. Answering paragraph 14, this answering defendant denies each and every, all and  
13 singular, generally and specifically, the allegations contained therein.

## **FIRST CAUSE OF ACTION – Premises Liability**

15           9. Answering paragraph Prem. L-1, this answering defendant denies each and every  
16 allegation contained therein.

17       10. Answering paragraph Prem. L-2, this answering defendant denies each and every  
18 allegation contained therein.

19       11. Answering paragraph Prem. L-6(a), this answering defendant denies each and every  
20 allegation contained therein.

## **DEMAND FOR JURY TRIAL**

This answering defendant demands a jury trial.

## AFFIRMATIVE DEFENSES

25       **COMES NOW**, Defendant TARGET STORES, a division of Target Corporation,  
26 erroneously sued herein as Target Corporation, and for its answer to the complaint of plaintiff on  
27 file herein alleges as follows:

**AS A FIRST, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE**

1   **VERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION**  
2   **THEREOF**, this answering defendant is informed and believes and thereon alleges that neither the  
3   complaint nor any of its alleged causes of action states facts sufficient to constitute a cause of  
4   action against this answering defendant.

5   **AS A SECOND, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE**  
6   **VERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION**  
7   **THEREOF**, this answering defendant is informed and believes and thereon alleges that plaintiff  
8   failed to mitigate her alleged damages as required by law.

9   **AS A THIRD, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE**  
10   **VERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION**  
11   **THEREOF**, this answering defendant is informed and believes and thereon alleges that plaintiff  
12   was comparatively at fault in the manner and style as set forth in the case of *Li v. Yellow Cab Co.*  
13   (1975) 13 Cal.3d 804, and defendant prays that any and all damages sustained by said plaintiff be  
14   reduced by the percentage of her negligence.

15   **AS A FOURTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE**  
16   **VERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION**  
17   **THEREOF**, this answering defendant is informed and believes and thereon alleges that the  
18   damages complained of, if any there were, were proximately contributed to or caused by the  
19   carelessness, negligence, fault or defects created by the remaining parties in this action, or by other  
20   persons, corporations or business entities unknown to this answering defendant at this time, and  
21   were not caused in any way by this answering defendant, or by persons for whom this answering  
22   defendant is legally liable.

23         Should this answering defendant be found liable to plaintiff, which liability is expressly  
24   denied, said defendant is entitled to have this award against it abated, reduced or eliminated to the  
25   extent that the negligence, carelessness, fault or defects created by the remaining parties in this  
26   action, or by said other persons, corporations or business entities, contributed to plaintiff's  
27   damages, if any.

28   **AS A FIFTH, SEPARATE AND DISTINCT AFFIRMATIVE DEFENSE TO THE**

1 **VERIFIED COMPLAINT ON FILE HEREIN, AND TO EACH CAUSE OF ACTION**  
2 **THEREOF**, this answering defendant is informed and believes and thereon alleges that plaintiff  
3 knew, or in the exercise of ordinary care should have known, of the risks and hazards involved in  
4 the undertaking in which she was engaged, but nevertheless and knowing these things, did freely  
5 and voluntarily consent to assume all the risks and hazards involved in the undertaking.

6 **WHEREFORE**, this answering defendant prays as follows:

- 7 1. That plaintiff take nothing by her complaint and that this answering defendant be  
8 dismissed hence;  
9 2. For reasonable attorneys' fees;  
10 3. For costs of suit incurred herein; and  
11 4. For such other and further relief as the Court deems fit and proper.

12 DATED: September 10, 2007

BOORNAZIAN, JENSEN & GARTHE  
A Professional Corporation

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14  
15 By: Gail C. Trabish  
16 GAIL C. TRABISH, ESQ.  
17 Attorneys for Defendant  
18 TARGET STORES, a division of  
Target Corporation, erroneously sued  
herein as Target Corporation

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1                           **CERTIFICATE OF SERVICE**  
2                           **(28 U.S.C. §1746)**

3                           I am employed in the County of Alameda, State of California. I am over the age of 18  
4 years and not a party to the within action. My business address is 555 12th Street, Suite 1800,  
5 P. O. Box 12925, Oakland, California 94604-2925.

6                           I am readily familiar with the business practice for collection and processing of  
7 correspondence for mailing with the United States Postal Service. On the date indicated below, at  
8 the above-referenced business location, I sealed envelopes, enclosing a copy of the **ANSWER TO**  
9 **COMPLAINT**, addressed as shown below, and placed them for collection and mailing following  
10 ordinary business practices to be deposited with the United States Postal Service on the date  
11 indicated below:

13                          Matthew N. White, Esq.  
14                          Law Offices of Matthew N. White  
15                          1000 Fourth Street, Ste. 600  
16                          San Rafael, CA 94901  
17                          (415) 453-1010 Phone  
18                          (415) 456-1921 Fax

13                          **Attorneys for Plaintiff**

19                          I declare under penalty of perjury under the laws of the State of California that the  
20 foregoing is true and correct.

21                          Executed at Oakland, California, on September 10, 2007.

22                            
23                          \_\_\_\_\_  
24                          Alexine L. Braun

25                          GCT01\413826